

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL A. FYKES,

Plaintiff,

Vs.

CITY OF CLEVELAND, ET AL.,

Defendant.

CASE NO.1:08CV1598

JUDGE CHRISTOPHER A. BOYKO

ORDER

CHRISTOPHER A. BOYKO, J:

On September 30, 2008, Plaintiff served a subpoena on Mike Krengulec commanding him to produce video within his possession containing evidence relevant to the claims before this Court. Mr. Krengulec was ordered to produce the video no later than October 7, 2008. Mr. Krengulec failed to produce the video and failed to respond to the duly served subpoena. On November 19, 2008, the Court issued a Show Cause Order why Mr. Krengulec should not be held in contempt for failing to comply with the subpoena. The Show Cause Order required Mr. Krengulec to provide the requested video no later than November 24, 2008. The Order further stated that a failure to produce the video by that date would result in a Show Cause hearing before the Court on November 26, 2008. The Show Cause Order warned that failure to appear at the hearing may result in sanctions. Mr. Krengulec failed to provide the subpoenaed videotape

by November 24, 2008 and failed to appear at the November 26, 2008 Show Cause hearing at which both Plaintiff and Defendant's counsel were in attendance. Plaintiff's counsel informed the Court that per the Court's Show Cause Order Plaintiff's counsel personally served a copy of the Show Cause Order on Mr. Krengulec. Furthermore, Plaintiff's counsel informed the Court at the Show Cause hearing that he spoke with Mr. Krengulec by phone on November 25, 2008 to discuss the requested video. During the course of their conversation, Plaintiff's counsel reminded Mr. Krengulec of his obligation to appear at the Show Cause hearing the following day. In spite of clear language of the Show Cause Order, personally served on Mr. Krengulec, and the subsequent phone call with Plaintiff's counsel, Mr. Krengulec failed to appear at the duly noticed Show Cause hearing and failed to contact the Court. The Court finds Mr. Krengulec has failed to show good cause for his failure to comply with the subpoena, failed to comply with the Court's Show Cause Order to produce the requested video by November 24, 2008, and failed to appear for the Show Cause hearing on November 26, 2008. Therefore, the Court finds Mr. Krengulec is in contempt of this Court's Order and subpoena and Orders his immediate arrest.

IT IS SO ORDERED.

S/Christopher A. Boyko
CHRISTOPHER A. BOYKO
United States District Judge

December 1, 2008

